

By Santhoshan

S. B. No. 1033

A BILL TO BE ENTITLED

AN ACT

relating to the protection of groundwater in the state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 26, Water Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. GROUNDWATER PROTECTION

Sec. 26.401. FINDINGS; POLICY. (a) The legislature finds that:

(1) the State of Texas has present and future water supply needs that require the continued protection and maintenance of dependable supplies of high quality groundwater;

(2) many existing groundwater sources not considered to be usable water supplies may become future sources of usable groundwater as technological and economic circumstances change; and

(3) protection of the public health, welfare, and environment requires that groundwater be kept reasonably free of contamination by man-made pollution sources.

(b) The legislature determines that it is the goal of groundwater policy in this state to assure that there be no degradation of the existing quality of groundwater sources and that the regulatory and other programs of state agencies with responsibilities related to groundwater must be directed toward the achievement of that goal.

Sec. 26.402. ENFORCEMENT STANDARDS. (a) The commission

1 shall establish enforcement standards for organic substances that  
2 might be introduced into groundwater as contaminants as a result of  
3 man-made pollution sources. Those standards must specify that each  
4 agency with responsibilities related to protection of groundwater,  
5 under its respective regulatory and other jurisdiction, shall  
6 prohibit activities that are reasonably suspected of causing  
7 contamination of groundwater by organic substances under any of the  
8 agency's laws and rules if one or more of those organic substances  
9 are detected at any level in an aquifer or portion of an aquifer.

10 (b) Under this subsection, the agencies identified as having  
11 responsibilities related to protection of groundwater include the  
12 commission, the Texas Water Development Board, the Texas Water Well  
13 Drillers Board, the Texas Department of Health, the Department of  
14 Agriculture, and the Railroad Commission of Texas.

15 (c) The commission shall establish enforcement standards for  
16 organic substances, including:

- 17 (1) Trichloroethylene;
- 18 (2) Tetrachloroethylene;
- 19 (3) Carbon tetrachloride;
- 20 (4) 1,1,1-Trichloroethane;
- 21 (5) 1,2-Dichloroethane;
- 22 (6) Vinyl chloride
- 23 (7) Methylene chloride;
- 24 (8) Benzene;
- 25 (9) Chlorobenzene;
- 26 (10) Dichlorobenzenes;
- 27 (11) Trichlorobenzenes;

1            (12) 1,1-Dichloroethylene;  
2            (13) trans-1,2-Dichloroethylene;  
3            (14) cis-1,2-Dichloroethylene;  
4            (15) Endrin;  
5            (16) Lindane;  
6            (17) Methoxychlor;  
7            (18) Toxaphene;  
8            (19) 2,4-D;  
9            (20) 2,4,5-TP;  
10           (21) Aldicarb;  
11           (22) Chlordane;  
12           (23) Dalapon;  
13           (24) Diquat;  
14           (25) Endothall;  
15           (26) Glyphosate;  
16           (27) Carbofuran;  
17           (28) Alachlor;  
18           (29) Simazine;  
19           (30) Atrazine;  
20           (31) Dibromochloropropane (DBCP);  
21           (32) Pentachlorophenol;  
22           (33) Dinoseb;  
23           (34) Ethylene dibromide (EDB);  
24           (35) Pichloram;  
25           (36) Chloroform;  
26           (37) Bromoform;  
27           (38) Chlorodibromomethane;

- 1           (39) Dichlorobromomethane;  
2           (40) Epichlorohydrin;  
3           (41) Toluene;  
4           (42) Adipates;  
5           (43) 2,3,7,8-TCDD (Dioxin);  
6           (44) 1,1,2-Trichloroethane;  
7           (45) 1,2-Dichloropropane;  
8           (46) Vydate;  
9           (47) Polynuclear aromatic hydrocarbons (PAH's);  
10          (48) Polychlorinated biphenyls (PCB's);  
11          (49) Phthalates;  
12          (50) Acrylamide;  
13          (51) Dibromomethane;  
14          (52) Xylene; and  
15          (53) Hexachlorocyclopentadiene.

16          (d) If any level of one or more of the organic substances  
17 listed in Subsection (c) of this section is detected in an aquifer  
18 or portion of an aquifer, the appropriate state agency with  
19 regulatory jurisdiction over activities that might be reasonably  
20 suspected as sources of that contamination shall evaluate the  
21 situation and take action that is necessary to prevent further  
22 contamination. Those actions may include additional investigation  
23 and monitoring and requirements for modifications in the facility  
24 or activity reasonably determined by the state agency with  
25 regulatory jurisdiction to be a cause of the contamination.

26          (e) The state agency with regulatory jurisdiction shall  
27 prohibit under any of the agency's laws and rules the continuation

1 of any activity that is reasonably determined to be a cause of the  
2 contamination unless it is demonstrated that an alternative  
3 response will prevent further contamination.

4 (f) The state agencies identified in Subsection (b) of this  
5 section may adopt rules to implement this section.

6 (g) If any level of one or more of the organic substances  
7 listed in Subsection (c) of this section is detected in an aquifer  
8 or portion of an aquifer, the appropriate agencies with regulatory  
9 jurisdiction over the activities reasonably suspected of causing  
10 the contamination shall coordinate their enforcement and related  
11 actions, with the commission acting as the lead agency in those  
12 circumstances.

13 Sec. 26.403. PUBLIC FILE; REPORT. (a) Each state agency  
14 having responsibilities related to protection of groundwater shall  
15 maintain a public file of all documented cases of groundwater  
16 contamination reasonably suspected as having been caused by  
17 activities regulated by the agency.

18 (b) With the commission as the lead agency, the state  
19 agencies shall publish a joint groundwater monitoring and  
20 contamination report not later than September 1 of each  
21 even-numbered year. The report shall:

22 (1) describe the current status of groundwater  
23 monitoring programs conducted by or required by each agency at  
24 regulated facilities or in connection with regulated activities;

25 (2) contain a description of each case of groundwater  
26 contamination documented during the preceding two-year period, and  
27 of each case of groundwater contamination documented during

1 previous periods for which enforcement action was incomplete at the  
2 time of issuance of the preceding report; and

3 (3) indicate the status of enforcement action for each  
4 case of groundwater contamination that is included in the report.

5 SECTION 2. (a) The Texas Water Commission, the Texas Water  
6 Development Board, the Texas Water Well Drillers Board, the Texas  
7 Department of Health, the Department of Agriculture, and the  
8 Railroad Commission of Texas shall publish the contamination report  
9 required under Section 1 of this Act not later than September 1 of  
10 each even-numbered year, and the first report shall be published  
11 not later than September 1, 1988.

12 (b) Not later than one year after the effective date of this  
13 Act, the state agencies identified in Subsection (a) of this  
14 section shall develop and adopt as agency rules a memorandum of  
15 understanding relating to the coordination of the groundwater  
16 protection enforcement actions required by this Act.

17 (c) This Act takes effect September 1, 1987.

18 SECTION 3. The importance of this legislation and the  
19 crowded condition of the calendars in both houses create an  
20 emergency and an imperative public necessity that the  
21 constitutional rule requiring bills to be read on three several  
22 days in each house be suspended, and this rule is hereby suspended.

1 By: Santiesteban S.B. No. 1033  
2 (In the Senate - Filed March 12, 1987; March 16, 1987, read  
3 first time and referred to Committee on Natural Resources;  
4 April 30, 1987, reported adversely, with favorable Committee  
5 Substitute by the following vote: Yeas 6, Nays 0; April 30, 1987,  
6 sent to printer.)

7 COMMITTEE VOTE

	Yea	Nay	PNV	Absent
8 Santiesteban	x			
9 Montford				x
10 Armbrister	x			
11 Brown				x
12 Lyon	x			
13 Sarpalius	x			
14 Sims				x
15 Tejeda				x
16 Uribe	x			
17 Whitmire				x
18 Zaffirini	x			

19  
20 COMMITTEE SUBSTITUTE FOR S.B. No. 1033

By: Santiesteban

21 A BILL TO BE ENTITLED  
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24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

25 SECTION 1. Section 26.003, Water Code, as amended, is  
26 amended to read as follows:

27 Sec. 26.003. POLICY OF THIS CHAPTER [SUBCHAPTER]. It is the  
28 policy of this state and the purpose of this Chapter [subchapter]  
29 to maintain the quality of water in the state consistent with the  
30 public health and enjoyment, the propagation and protection of  
31 terrestrial and aquatic life, the operation of existing  
32 industries, and the economic development of the state; to encourage  
33 and promote the development and use of regional and areawide waste  
34 collection, treatment, and disposal systems to serve the waste  
35 disposal needs of the citizens of the state; to protect and enhance  
36 the existing quality of usable and potentially usable groundwater;  
37 and to require the use of all reasonable methods to implement this  
38 policy.

39 SECTION 2. By January 1, 1989, the executive director of the  
40 Texas Water Commission shall prepare an assessment of groundwater  
41 quality in the major and minor aquifers of the state. The report  
42 shall:

43 (1) identify areas of usable and potentially usable  
44 groundwater;

45 (2) assess the extent to which contamination of otherwise  
46 usable or potentially usable groundwater already exists;

47 (3) identify sources with reasonable potential to affect the  
48 resource;

49 (4) assess the relative importance of various potential  
50 sources of contamination, including current and past oil and gas  
51 production and related practices, agricultural practices, recharge  
52 projects, septic tanks, industrial and manufacturing processes, and  
53 other sources; and

54 (5) identify areas in which groundwater pumping threatens  
55 groundwater quality, surface water quality, or surface water  
56 rights.

57 SECTION 3. (a) The Groundwater Study Committee is created.

58 (b) The committee is composed of:

59 (1) three members appointed by the governor, two of whom are  
60 attorneys knowledgeable about water law;

61 (2) four members appointed by the lieutenant governor, two  
62 of whom are state senators, one of whom is a representative of the  
63 general public with a demonstrated involvement in business and  
64 industry, and one of whom is a representative of the general public  
65 with a demonstrated involvement in efforts to protect the  
66 environment; and

67 (3) four members appointed by the speaker of the house of  
68 representatives, two of whom are state representatives, one of whom  
69 is a representative of the general public with a demonstrated  
70 involvement in business and industry, and one of whom is a  
71 representative of the general public with a demonstrated

involvement in efforts to protect the environment.

(c) The governor shall appoint the chairman of the committee.

(d) The committee shall recommend a groundwater protection policy which shall include recommendations regarding changes to existing agency authority and powers, modifications of existing institutional arrangements, the use of groundwater quality standards, the classification of aquifers, and any other policies necessary to protect the existing quality of usable or potentially usable groundwater. The committee shall also assess the need for policies to limit groundwater production in areas where excessive pumping threatens groundwater quality, surface water quality, or surface water rights. The committee shall submit its report to the Legislature by January 1, 1989.

(e) The Texas Water Commission shall provide staff as necessary to assist the committee in performance of its duties.

(f) The committee shall meet at least quarterly and at other times at the call of the chairman.

SECTION 4. Section 26.128, Water Code, as amended, is amended to read as follows:

Sec. 26.128. GROUNDWATER QUALITY. (a) The executive director shall have investigated all matters concerning the quality of groundwater in the state.

(b) Each state agency having responsibilities related to the protection of groundwater shall maintain a public file of all documented cases of groundwater contamination reasonably suspected as having been caused by activities regulated by the agency.

(c) For purposes of this section the agencies identified as having regulatory responsibilities related to protection of groundwater include the commission, the Water Well Drillers Board, the Texas Department of Health, the Department of Agriculture, and the Railroad Commission of Texas.

(d) With the commission as the lead agency, the state agencies shall publish a joint groundwater monitoring and contamination report not later than March 1 of each year to cover the activities and findings of the previous calendar year. The report shall:

(1) describe the current status of groundwater monitoring programs conducted by or required by each agency at regulated facilities or in connection with regulated activities;

(2) contain a description of each case of groundwater contamination documented during the previous calendar year and of each case of groundwater contamination documented during previous periods for which enforcement action was incomplete at the time of issuance of the preceding report; and

(3) indicate the status of enforcement action for each case of groundwater contamination that is included in the report.

(e) The commission shall promulgate rules which define the conditions which constitute groundwater contamination for purposes of inclusion of cases in the public files and the joint report required by this section.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

\* \* \* \* \*

Austin, Texas  
April 30, 1987

Hon. William P. Hobby  
President of the Senate

Sir:

We, your Committee on Natural Resources to which was referred S.B. No. 1033, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted in lieu thereof do pass and be printed.

Santiesteban, Chairman



# SENATE FAVORABLY AS SUBSTITUTED COMMITTEE REPORT

Lt. Governor William P. Hobby  
President of the Senate

4/29<sup>30</sup> 4:00  
(date)/(time)

Sir:

We, your Committee on NATURAL RESOURCES to which was referred  
CSSB 1033 by Santesteban have on 4/29, 19 87, had the same  
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

☒ do pass as substituted, and be printed  
☒ the caption remained the same as original measure  
☐ the caption changed with adoption of the substitute

☐ do pass as substituted, and be ordered not printed

☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

Senate Sponsor of House Measure Santesteban

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Santesteban, Chairman	<input checked="" type="checkbox"/>			
Montford, Vice Chairman	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
Armbrister	<input checked="" type="checkbox"/>			
Brown	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
Lyon	<input checked="" type="checkbox"/>			
Sarpalius	<input checked="" type="checkbox"/>			
Sims				<input checked="" type="checkbox"/>
Tejeda				<input checked="" type="checkbox"/>
Uribe	<input checked="" type="checkbox"/>			
Whitmire				<input checked="" type="checkbox"/>
Zaffirini	<input checked="" type="checkbox"/>			
TOTAL VOTES	6	0	0	5

Jane Paulaski  
COMMITTEE CLERK

Santesteban  
CHAIRMAN

# FILE

7037

## BILL ANALYSIS

By: Santiesteban

S.B. 1033

### BACKGROUND:

Groundwater contamination can pose a threat to public health and to the environment. Since groundwater is vulnerable to contamination from a variety of activities and since clean-up of contaminated groundwater can be extremely difficult, costly, and in some cases, impossible, it has been suggested that the most effective way to maintain groundwater quality is to prevent contamination.

### PURPOSE:

As proposed, S.B. 1033 would establish a state groundwater policy, establish groundwater protection standards, and provide enforcement of these standards.

### RULEMAKING AUTHORITY:

It is the committee's opinion that rulemaking authority is granted to the Texas Water Development Board, the Texas Water Well Drillers Board, the Texas Department of Health, the Department of Agriculture, and the Railroad Commission of Texas under Sections 1 and 2 of this bill.

### SECTION BY SECTION ANALYSIS:

SECTION 1. Amends Chapter 26, Water Code, by adding Subchapter I, as follows:

Sec. 26.401. Sets forth the findings and the goal of the legislature concerning groundwater.

Sec. 26.402. (a) Requires the Texas Water Commission (commission) to establish enforcement standards for organic substances that might be introduced into groundwater as contaminants as a result of man-made pollution sources. (b) Sets forth the agencies identified as having responsibilities related to protection of groundwater under this subsection. (c) Sets forth certain organic substances for which the commission must establish enforcement standards. (d) Requires evaluation and necessary action to prevent further contamination, if one of the substances listed in Subsection (c) of this section is detected in an aquifer. (e) Requires the state agency with jurisdiction to prohibit the continuation of such activity as provided for in Subsection (d) unless an alternative response will prevent further contamination. (f) Allows the state agencies identified in Subsection (b) of this section to adopt rules to implement this section. (g) Requires the state agencies with jurisdiction over activities causing contamination as provided for in Subsection (d) of this section to coordinate their enforcement and related actions with the commission.

Sec. 26.403. (a) Requires maintenance of a public file of certain documented cases of groundwater contamination. (b) Requires state agencies to publish a biannual joint groundwater monitoring and contamination report with the commission and sets forth requirements for such report.

SECTION 2. (a) Requires certain state agencies to publish the contamination report required under Section 1 of this Act by September 1 of each even-numbered year, and the first report by September 1, 1988. (b) Requires the state agencies identified in Subsection (a) of this section to develop and adopt as agency rules a memorandum of understanding relating to

commission would receive evidence and testimony related to the groundwater situation in the area. (h) Requires the commission to give written notice of the hearing to the appropriate governing municipal bodies within the area identified by the executive director. (i) Requires the commission to consider all information related to the identified area, including information compiled by the executive director, and issue the order should the area be designated critical. (j) Provides for the commission to consider other factors when designating critical areas. (k) Requires the commission by order to issue a report that a district be created in a critical area, and allows the commission to use any other useful and necessary information in so doing. (l) Provides that an order issued under this section may not be appealed.

Sec. 52.054. (a) Requires the commission to call a hearing to consider the report issued under Section 52.053 of this code. (b)-(d) Substitute "commission" for "department."

Sec. 52.055. (a) Substitutes "commission" for "department" on receiving testimony and evidence on creation of a district to solve critical groundwater areas problems; (b) Substitutes "previous reports" for "department's reports."

Sec. 52.056. (d) Substitutes "commission" for "department."

SECTION 4. Repeals Section 52.052, Water Code ("Monitoring Underground Water").

SECTION 5. Effective date, September 1, 1987.

SECTION 6. Emergency clause.

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 1, 1987

TO: Honorable H. Tati Santiesteban, Chairman  
Committee on Natural Resources  
Senate Chamber  
Austin, Texas

In Re: Senate Bill No. 1033  
By: Santiesteban

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 1033 (relating to the protection of groundwater in the State) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The Water Commission would be required to establish nondegradation enforcement standards for organic substances that might be introduced into groundwater as contaminants as a result of man-made pollution sources. If contamination of an aquifer by regulated organic substances is detected at any level, the state agency with regulatory jurisdiction over the activity reasonably suspected as the source of the contamination would be required to take action necessary to prevent further contamination. State agencies would coordinate their enforcement activities with the Water Commission as the lead agency. The state agencies would publish biennially a joint groundwater monitoring and contamination report.

The probable cost of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Cost Out of the General Revenue Fund</u>	<u>Change in Number of State Employees from FY1987</u>
1988	\$321,992	+ 6.75
1989	336,230	+ 8.5
1990	334,740	+ 8.5
1991	334,740	+ 8.5
1992	334,740	+ 8.5

Similar annual costs would continue as long as the provisions of the bill are in effect.

No fiscal implication to units of local government is anticipated.

Source: Department of Agriculture; Department of Health;  
Railroad Commission; Water Commission; Water Development Board;  
Water Well Drillers Board; LBB Staff: JO, HES, JWH, JG, LV

By: Santiesteban

S.B. No. 1033

Substitute the following for S.B. No. 1033:

By: 

C.S.S.B. No. 1033

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SECTION 1. Section 26.003, Water Code, as amended, is amended to read as follows:

Sec. 26.003. POLICY OF THIS CHAPTER [~~SUBCHAPTER~~]. It is the policy of this state and the purpose of this Chapter [~~Subchapter~~] to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, the operation of existing industries, and the economic development of the state; to encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; to protect and enhance the existing quality of usable and potentially usable groundwater; and to require the use of all reasonable methods to implement this policy.

SECTION 2. By January 1, 1989, the executive director of the Texas Water Commission shall prepare an assessment of groundwater quality in the major and minor aquifers of the state. The report shall:

(1) identify areas of usable and potentially usable groundwater;

4/30/87  
5/11/87

1           (2) assess the extent to which contamination of otherwise  
2 usable or potentially usable groundwater already exists; <sup>1/2</sup>

3           (3) identify sources with reasonable potential to affect the  
4 resource;

5           (4) assess the relative importance of various potential  
6 sources of contamination, including current and past oil and gas  
7 production and related practices, agricultural practices, recharge  
8 projects, septic tanks, industrial and manufacturing processes, and  
9 other sources; and

10          (5) identify areas in which groundwater pumping threatens  
11 groundwater quality, surface water quality, or surface water  
12 rights.

13          SECTION 3. (a) The Groundwater Study Committee is created.

14          (b) The committee is composed of:

15          (1) three members appointed by the governor, two of whom are  
16 attorneys knowledgeable about water law;

17          (2) four members appointed by the lieutenant governor, two  
18 of whom are state senators, one of whom is a representative of the  
19 general public with a demonstrated involvement in business and  
20 industry, and one of whom is a representative of the general public  
21 with a demonstrated involvement in efforts to protect the  
22 environment; and

23          (3) four members appointed by the speaker of the house of  
24 representatives, two of whom are state representatives, one of whom  
25 is a representative of the general public with a demonstrated

1 involvement in business and industry, and one of whom is a  
2 representative of the general public with a demonstrated  
3 involvement in efforts to protect the environment.<sup>2/3</sup>

4 (c) The governor shall appoint the chairman of the  
5 committee.

6 (d) The committee shall recommend a groundwater protection  
7 policy which shall include recommendations regarding changes to  
8 existing agency authority and powers, modifications of existing  
9 institutional arrangements, the use of groundwater quality  
10 standards, the classification of aquifers, and any other policies  
11 necessary to protect the existing quality of usable or potentially  
12 usable groundwater. The committee shall also assess the need for  
13 policies to limit groundwater production in areas where excessive  
14 pumping threatens groundwater quality, surface water quality, or  
15 surface water rights. The committee shall submit its report to the  
16 Legislature by January 1, 1989.

17 (e) The Texas Water Commission shall provide staff as  
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7        groundwater include the commission, the Water Well Drillers Board,  
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9        the Railroad Commission of Texas.

10       (d) With the commission as the lead agency, the state  
11       agencies shall publish a joint groundwater monitoring and  
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13       the activities and findings of the previous calendar year. The  
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17       regulated facilities or in connection with regulated activities;

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19       contamination documented during the previous calendar year and of  
20       each case of groundwater contamination documented during previous  
21       periods for which enforcement action was incomplete at the time of  
22       issuance of the preceding report; and

23           (3) indicate the status of enforcement action for each  
24       case of groundwater contamination that is included in the report.

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1 conditions which constitute groundwater contamination for purposes  
2 of inclusion of cases in the public files and the joint report  
3 required by this section.

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5 crowded condition of the calendars in both houses create an  
6 emergency and an imperative public necessity that the  
7 constitutional rule requiring bills to be read on three several  
8 days in each house be suspended, and this rule is hereby suspended.

May 11 1987 Engrossed  
Latsy Law  
Engrossing Clerk

I certify that the attached is a true and correct  
copy of SB 1033, which was

received from the Senate on MAY 12 1987

referred to the Committee on Natural Resources

Debra Messinger  
Chief Clerk of the House

By: Santiesteban

S.B. No. 1033

(Johnson of Anderson) A BILL TO BE ENTITLED

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18 industry, and one of whom is a representative of the general public  
19 with a demonstrated involvement in efforts to protect the  
20 environment; and

21           (3) four members appointed by the speaker of the house of  
22 representatives, two of whom are state representatives, one of whom  
23 is a representative of the general public with a demonstrated  
24 involvement in business and industry, and one of whom is a  
25 representative of the general public with a demonstrated  
26 involvement in efforts to protect the environment.

1           (c) The governor shall appoint the chairman of the  
2 committee.

3           (d) The committee shall recommend a groundwater protection  
4 policy which shall include recommendations regarding changes to  
5 existing agency authority and powers, modifications of existing  
6 institutional arrangements, the use of groundwater quality  
7 standards, the classification of aquifers, and any other policies  
8 necessary to protect the existing quality of usable or potentially  
9 usable groundwater. The committee shall also assess the need for  
10 policies to limit groundwater production in areas where excessive  
11 pumping threatens groundwater quality, surface water quality, or  
12 surface water rights. The committee shall submit its report to the  
13 legislature by January 1, 1989.

14           (e) The Texas Water Commission shall provide staff as  
15 necessary to assist the committee in performance of its duties.

16           (f) The committee shall meet at least quarterly and at other  
17 times at the call of the chairman.

18           SECTION 4. Section 26.128, Water Code, as amended, is  
19 amended to read as follows:

20           Sec. 26.128. GROUNDWATER QUALITY. (a) The executive  
21 director shall have investigated all matters concerning the quality  
22 of groundwater in the state.

23           (b) Each state agency having responsibilities related to the  
24 protection of groundwater shall maintain a public file of all  
25 documented cases of groundwater contamination reasonably suspected  
26 as having been caused by activities regulated by the agency.

1        (c) For purposes of this section the agencies identified as  
2 having regulatory responsibilities related to protection of  
3 groundwater include the commission, the Water Well Drillers Board,  
4 the Texas Department of Health, the Department of Agriculture, and  
5 the Railroad Commission of Texas.

6        (d) With the commission as the lead agency, the state  
7 agencies shall publish a joint groundwater monitoring and  
8 contamination report not later than March 1 of each year to cover  
9 the activities and findings of the previous calendar year. The  
10 report shall:

11            (1) describe the current status of groundwater  
12 monitoring programs conducted by or required by each agency at  
13 regulated facilities or in connection with regulated activities;

14            (2) contain a description of each case of groundwater  
15 contamination documented during the previous calendar year and of  
16 each case of groundwater contamination documented during previous  
17 periods for which enforcement action was incomplete at the time of  
18 issuance of the preceding report; and

19            (3) indicate the status of enforcement action for each  
20 case of groundwater contamination that is included in the report.

21        (e) The commission shall promulgate rules which define the  
22 conditions which constitute groundwater contamination for purposes  
23 of inclusion of cases in the public files and the joint report  
24 required by this section.

25        SECTION 5. The importance of this legislation and the  
26 crowded condition of the calendars in both houses create an

S.B. No. 1033

1    emergency    and    an    imperative    public    necessity    that    the  
2    constitutional    rule    requiring    bills    to be read on three several  
3    days in each house be suspended, and this rule is hereby suspended.

1                                    COMMITTEE AMENDMENT NO. 1

2            Amend S.B. 1033 as follows:

3            (1) Delete Section 2 of the bill and substitute the  
4 following in lieu thereof:

5            SECTION 2.    (a) By January 1, 1989, the executive director  
6 of the Texas Water Commission shall prepare an assessment of  
7 groundwater quality in the major and minor aquifers of the state.  
8 The report shall:

9            (1) identify areas of usable and potentially usable  
10 groundwater;

11           (2) assess the extent to which contamination of otherwise  
12 usable or potentially usable groundwater already exists;

13           (3) identify sources with reasonable potential to affect the  
14 resource;

15           (4) assess the relative importance of various potential  
16 sources of contamination; and

17           (5) identify areas in which groundwater pumping threatens  
18 groundwater quality, surface water quality, or surface water  
19 rights.

20           (b) In preparing the assessment in Subsection (a) of this  
21 section, the executive director shall coordinate with the Texas  
22 Water Development Board and other appropriate state agencies.

23           (2) In Section 4 of the bill, delete Sec. 26.128(c) and  
24 substitute the following in lieu thereof:

25           (c) For purposes of this section the agencies identified as  
26 having responsibilities related to protection of groundwater  
27 include the commission, the Texas Water Development Board, the

S.B. No. 1033

1 Water Well Drillers Board, the Texas Department of Health, the  
2 Department of Agriculture, and the Railroad Commission of Texas.

3 Johnson of Anderson



# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 1, 1987

TO: Honorable H. Tati Santiesteban, Chairman  
Committee on Natural Resources  
Senate Chamber  
Austin, Texas

In Re: Senate Bill No. 1033  
By: Santiesteban

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 1033 (relating to the protection of groundwater in the State) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The Water Commission would be required to establish nondegradation enforcement standards for organic substances that might be introduced into groundwater as contaminants as a result of man-made pollution sources. If contamination of an aquifer by regulated organic substances is detected at any level, the state agency with regulatory jurisdiction over the activity reasonably suspected as the source of the contamination would be required to take action necessary to prevent further contamination. State agencies would coordinate their enforcement activities with the Water Commission as the lead agency. The state agencies would publish biennially a joint groundwater monitoring and contamination report.

The probable cost of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Cost Out of the General Revenue Fund</u>	<u>Change in Number of State Employees from FY1987</u>
1988	\$321,992	+ 6.75
1989	336,230	+ 8.5
1990	334,740	+ 8.5
1991	334,740	+ 8.5
1992	334,740	+ 8.5

Similar annual costs would continue as long as the provisions of the bill are in effect.

No fiscal implication to units of local government is anticipated.

Source: Department of Agriculture; Department of Health;  
Railroad Commission; Water Commission; Water Development Board;  
Water Well Drillers Board; LBB Staff: JO, HES, JWH, JG, LV

# HOUSE COMMITTEE REPORT

1st Printing

By: Santiesteban

S.B. No. 1033

(Johnson of Anderson) A BILL TO BE ENTITLED

AN ACT

relating to the protection of groundwater in the state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 26.003, Water Code, as amended, is amended to read as follows:

Sec. 26.003. POLICY OF THIS CHAPTER [SUBCHAPTER]. It is the policy of this state and the purpose of this chapter [subchapter] to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, the operation of existing industries, and the economic development of the state; to encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; to protect and enhance the existing quality of usable and potentially usable groundwater; and to require the use of all reasonable methods to implement this policy.

SECTION 2. By January 1, 1989, the executive director of the Texas Water Commission shall prepare an assessment of groundwater quality in the major and minor aquifers of the state. The report shall:

(1) identify areas of usable and potentially usable groundwater;

(2) assess the extent to which contamination of otherwise usable or potentially usable groundwater already exists;

1           (3) identify sources with reasonable potential to affect the  
2 resource;

3           (4) assess the relative importance of various potential  
4 sources of contamination, including current and past oil and gas  
5 production and related practices, agricultural practices, recharge  
6 projects, septic tanks, industrial and manufacturing processes, and  
7 other sources; and

8           (5) identify areas in which groundwater pumping threatens  
9 groundwater quality, surface water quality, or surface water  
10 rights.

11         SECTION 3. (a) The Groundwater Study Committee is created.

12           (b) The committee is composed of:

13           (1) three members appointed by the governor, two of whom are  
14 attorneys knowledgeable about water law;

15           (2) four members appointed by the lieutenant governor, two  
16 of whom are state senators, one of whom is a representative of the  
17 general public with a demonstrated involvement in business and  
18 industry, and one of whom is a representative of the general public  
19 with a demonstrated involvement in efforts to protect the  
20 environment; and

21           (3) four members appointed by the speaker of the house of  
22 representatives, two of whom are state representatives, one of whom  
23 is a representative of the general public with a demonstrated  
24 involvement in business and industry, and one of whom is a  
25 representative of the general public with a demonstrated  
26 involvement in efforts to protect the environment.

1           (c) The governor shall appoint the chairman of the  
2 committee.

3           (d) The committee shall recommend a groundwater protection  
4 policy which shall include recommendations regarding changes to  
5 existing agency authority and powers, modifications of existing  
6 institutional arrangements, the use of groundwater quality  
7 standards, the classification of aquifers, and any other policies  
8 necessary to protect the existing quality of usable or potentially  
9 usable groundwater. The committee shall also assess the need for  
10 policies to limit groundwater production in areas where excessive  
11 pumping threatens groundwater quality, surface water quality, or  
12 surface water rights. The committee shall submit its report to the  
13 legislature by January 1, 1989.

14           (e) The Texas Water Commission shall provide staff as  
15 necessary to assist the committee in performance of its duties.

16           (f) The committee shall meet at least quarterly and at other  
17 times at the call of the chairman.

18           SECTION 4. Section 26.128, Water Code, as amended, is  
19 amended to read as follows:

20           Sec. 26.128. GROUNDWATER QUALITY. (a) The executive  
21 director shall have investigated all matters concerning the quality  
22 of groundwater in the state.

23           (b) Each state agency having responsibilities related to the  
24 protection of groundwater shall maintain a public file of all  
25 documented cases of groundwater contamination reasonably suspected  
26 as having been caused by activities regulated by the agency.

1        (c) For purposes of this section the agencies identified as  
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3 groundwater include the commission, the Water Well Drillers Board,  
4 the Texas Department of Health, the Department of Agriculture, and  
5 the Railroad Commission of Texas.

6        (d) With the commission as the lead agency, the state  
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8 contamination report not later than March 1 of each year to cover  
9 the activities and findings of the previous calendar year. The  
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13 regulated facilities or in connection with regulated activities;

14            (2) contain a description of each case of groundwater  
15 contamination documented during the previous calendar year and of  
16 each case of groundwater contamination documented during previous  
17 periods for which enforcement action was incomplete at the time of  
18 issuance of the preceding report; and

19            (3) indicate the status of enforcement action for each  
20 case of groundwater contamination that is included in the report.

21        (e) The commission shall promulgate rules which define the  
22 conditions which constitute groundwater contamination for purposes  
23 of inclusion of cases in the public files and the joint report  
24 required by this section.

25        SECTION 5.    The importance of this legislation and the  
26 crowded condition of the calendars in both houses create an

S.B. No. 1033

1    emergency    and    an    imperative    public    necessity    that    the  
2    constitutional    rule    requiring    bills    to be read on three several  
3    days in each house be suspended, and this rule is hereby suspended.

COMMITTEE AMENDMENT NO. 1

Amend S.B. 1033 as follows:

(1) Delete Section 2 of the bill and substitute the following in lieu thereof:

SECTION 2. (a) By January 1, 1989, the executive director of the Texas Water Commission shall prepare an assessment of groundwater quality in the major and minor aquifers of the state. The report shall:

(1) identify areas of usable and potentially usable groundwater;

(2) assess the extent to which contamination of otherwise usable or potentially usable groundwater already exists;

(3) identify sources with reasonable potential to affect the resource;

(4) assess the relative importance of various potential sources of contamination; and

(5) identify areas in which groundwater pumping threatens groundwater quality, surface water quality, or surface water rights.

(b) In preparing the assessment in Subsection (a) of this section, the executive director shall coordinate with the Texas Water Development Board and other appropriate state agencies.

(2) In Section 4 of the bill, delete Sec. 26.128(c) and substitute the following in lieu thereof:

(c) For purposes of this section the agencies identified as having responsibilities related to protection of groundwater include the commission, the Texas Water Development Board, the

S.B. No. 1033

1 Water Well Drillers Board, the Texas Department of Health, the  
2 Department of Agriculture, and the Railroad Commission of Texas.

3 Johnson of Anderson



COMMITTEE REPORT

The Honorable Gib Lewis  
Speaker of the House of Representatives

5-20-87  
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES,

to whom was referred SB 1033 have had the same under consideration and beg to report  
(measure)  
back with the recommendation that it

- ( ) do pass, without amendment.
- (X) do pass, with amendment(s).
- ( ) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (X) yes ( ) no                      An actuarial analysis was requested. ( ) yes (X) no

An author's fiscal statement was requested. ( ) yes (X) no

The Committee recommends that this measure be placed on the ~~(Local)~~ or ~~(Consent)~~ Calendar.

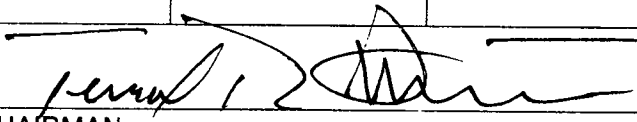

This measure ( ) proposes new law.      (X) amends existing law.

House Sponsor of Senate Measure C. Johnson

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Smith, T., Ch.	X			
Harris, J., V.C.	X			
Johnson, C., C.B.O.	X			
Hammond				X
Holzheuser	X			
Russell	X			
Shelley				X
Toomey				X
Yost	X			

Total  
6 aye  
0 nay  
0 present, not voting  
3 absent

  
CHAIRMAN  
  
COMMITTEE COORDINATOR

SB 1033  
By: Santiesteban

Committee on  
Natural Resources

## BILL ANALYSIS

### Background

Groundwater contamination can pose a threat to public health and to the environment. Since groundwater is vulnerable to contamination from a variety of activities and since clean-up of contaminated groundwater can be extremely difficult, costly, and in some cases, impossible, it has been suggested that the most effective way to maintain groundwater quality is to prevent contamination.

### Purpose of the Bill

This bill would establish a state groundwater policy and create a groundwater study committee.

### Section by Section Analysis

- SECTION 1. Amends Section 26.003 to set forth the policy of the State concerning groundwater.
- SECTION 2. Requires the director of the Texas Water Commission to prepare an assessment of groundwater quality in minor and major aquifers of the state, including groundwater sources, potential sources of contamination, and possible threats of greater groundwater pumping on groundwater or surface water quality or surface water rights.
- SECTION 3. Creates the Groundwater Study Committee. Sets forth membership composition. Provides for appointment of the chair. Provides that the committee shall recommend a groundwater protection policy, including an assessment of the threat posed by pumping to groundwater or surface water quality or surface water rights. Requires the committee to submit an interim report. Requires the commission to provide committee staff. Provides for a meeting schedule.
- SECTION 4. Amends Section 26.128 of the Water Code to provide that the director shall investigate all matters concerning groundwater in the state. Requires agencies to maintain public files. Identifies agencies having regulatory responsibilities. Provides for a joint groundwater monitoring and contamination report and establishes the parameters of the report.
- SECTION 5. Emergency clause.

### Rulemaking Authority

It is the opinion of this committee that this bill does not delegate rulemaking authority to any state agency, officer, department, or institution.

### Summary of Committee Action

Public notice was posted in accordance to the rules and a public hearing was held on Wednesday, May 20, 1987, and the full committee voted to report SB 1033 to the House as amended with a recommendation that it do pass

by a record vote of 6 ayes, zero nays and zero present, not voting.

The following person testified in favor of SB 1033:

Ken Kramer, Consultant  
Sierra Club

The following persons served as resource witnesses on SB 1033:

Tommy Knowles, Engineer  
Texas Water Development Board

Suzanne Schwartz, General Counsel  
Texas Water Development Board

The following persons did not testify, but wished the record to reflect their support of SB 1033:

Jim Shannon, Public Relations Representative  
Texas Rural Health Association

Evelyn Bonavita, Legislative Director  
League of Women Voters

### Effect of Committee Amendments

Committee Amendment 1 provides a new Section 2, which adds subsection (b) to require that the executive director coordinate with the Texas Water Development Board in preparing the assessment of groundwater quality, and amends subsection (a)(4) to delete the listing of potential sources of contamination. Committee Amendment 1 also amends Section 4 to include the Texas Water Development Board in the list of agencies having regulatory responsibilities related to the protection of groundwater.

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

May 19, 1987

TO: Honorable Terral Smith, Chair  
Committee on Natural Resources  
House of Representatives  
Austin, Texas

In Re: Senate Bill No. 1033,  
as engrossed  
By: Santiesteban

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 1033, as engrossed (relating to the protection of groundwater in the State) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill requires the Water Commission to prepare a report assessing groundwater quality in the State by January 1, 1989. A Groundwater Study Committee is created to recommend groundwater protection policy. The committee will submit its report to the Legislature by January 1, 1989. The Commission will provide staff to assist the committee.

The Water Commission, Water Well Drillers Board, Texas Department of Health, Department of Agriculture and Railroad Commission shall maintain a public file of all documented cases of groundwater contamination reasonably suspected of having been caused by activities regulated by that agency. Agencies will publish annually a joint groundwater monitoring and contamination report. The Commission will adopt rules defining groundwater contamination for purposes of the public files and joint report.

The probable cost of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Cost Out of the General Revenue Fund</u>	<u>Change in Number of State Employees from FY1987</u>
1988	\$251,034	+ 6
1989	85,539	+ 3.5
1990	85,539	+ 3.5
1991	85,539	+ 3.5
1992	85,539	+ 3.5

Similar annual costs would continue as long as the provisions of the bill are in effect.

No fiscal implication to units of local government is anticipated.

Source: Department of Health; Railroad Commission; Water Commission;  
Water Well Drillers Board; LBB Staff: JO, HES, JWH, JG, AE

# LEGISLATIVE BUDGET BOARD

Austin, Texas

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Source: Department of Health; Railroad Commission; Water Commission;  
Water Well Drillers Board; LBB Staff: JO, HES, JWH, JG, AF

4

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 1, 1987

TO: Honorable H. Tati Santiesteban, Chairman  
Committee on Natural Resources  
Senate Chamber  
Austin, Texas

In Re: Senate Bill No. 1033  
By: Santiesteban

FROM: Jim Oliver, Director

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Source: Department of Agriculture; Department of Health;  
Railroad Commission; Water Commission; Water Development Board;  
Water Well Drillers Board; LBB Staff: JO, HES, JWH, JG, LV

S. B. No. 1033

By Santestaban

AN ACT relating to the protection of groundwater in the state.

3-12-87  
MAR 16 1987

Filed with the Secretary of the Senate

Read and referred to Committee on NATURAL RESOURCES

Reported favorably

APR 30 1987

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

MAY 11 1987

Senate and Constitutional Rules to permit consideration suspended by:

unanimous consent

\_\_\_\_ years, \_\_\_\_ nays

MAY 11 1987

Read second time, \_\_\_\_\_, and ordered engrossed by:

unanimous consent

a viva voce vote

\_\_\_\_ years, \_\_\_\_ nays

Caption ordered amended to conform to the body of the bill.

MAY 11 1987

Senate and Constitutional 3 Day Rule suspended by a vote of 29 yeas, 0 nays.

MAY 11 1987

Read third time, \_\_\_\_\_, and passed by \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

BY A VIVA VOCE VOTE

Betty King  
SECRETARY OF THE SENATE

OTHER ACTION:

May 11, 1987

Engrossed

MAY 12 1987

Sent to House

Engrossing Clerk

Patsy Law

MAY 12 1987

Received from the Senate

MAY 14 1987

Read first time and referred to Committee on

Natural Resources

5-20-87

Reported favorably amended, sent to Printer at

5:15 pm

MAY 22 1987

Printed and Distributed 11:21 p.m.

MAY 21 1987

MAY 23 1987

Sent to Committee on Calendars 2:21 pm

Read Second time (amended): passed to third reading (failed)

by (Non-Record Vote) Record Vote of \_\_\_\_ yeas, \_\_\_\_ nays \_\_\_\_ present not voting.

Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of \_\_\_\_ yeas, \_\_\_\_ nays \_\_\_\_ present not voting.

Read third time (amended); finally passed (failed) by a (Non-Record Vote) Record Vote of

\_\_\_\_ yeas, \_\_\_\_ nays \_\_\_\_ present not voting.

Caption ordered amended to conform to body of bill.

Returned to Senate.

\_\_\_\_\_  
CHIEF CLERK OF THE HOUSE

Returned from House without amendment.

Returned from House with \_\_\_\_ amendments.

Concurred in House amendments by a viva voce vote \_\_\_\_ yeas, \_\_\_\_ nays.

\_\_\_\_\_ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

\_\_\_\_\_ Senate conferees instructed.

\_\_\_\_\_ Senate conferees appointed: \_\_\_\_\_, Chairman; \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_

\_\_\_\_\_ House granted Senate request. House conferees appointed: \_\_\_\_\_, Chairman;  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_ Conference Committee Report read and filed with the Secretary of the Senate.

\_\_\_\_\_ Conference Committee Report adopted on the part of the House by: \_\_\_\_\_

{ a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays

\_\_\_\_\_ Conference Committee Report adopted on the part of the Senate by: \_\_\_\_\_

{ a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays

**OTHER ACTION:**

\_\_\_\_\_ Recommitted to Conference Committee

\_\_\_\_\_ Conferees discharged

\_\_\_\_\_ Conference Committee Report failed of adoption by: \_\_\_\_\_

{ a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays

1971-12-14

NR